

### **REMARKS/ARGUMENTS**

These remarks are made in response to the Office Action of September 12, 2007 (Office Action). As this response is timely filed within the 3-month shortened statutory period, no fee is believed due. However, the Examiner is expressly authorized to charge any deficiencies to Deposit Account No. 50-0951.

In the Office Action, Claims 1-4, 6, 8-10, 12-19, 23, 25, and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Published Patent Application 2003/0225600 to Slivka, *et al.* (hereinafter Slivka) in view of Non-Patent Literature "Travellers Leave for Portugal After 24-Hour Wait for Plane," by Ingram (hereinafter Ingram), and in further view of Non-Patent Literature "Optimal Overbooking," by Arthur *et al.* (hereinafter Arthur). Claims 11 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Slivka in view of Ingram, in view of Arthur, and further in view of U.S. Published Patent Application 2002/0082878 to Boies, *et al.* (hereinafter Boies).

### **Amendments to the Claims**

Although Applicants respectfully disagree with the rejections in the Office Action, Applicants nonetheless have amended the claims in order to expedite prosecution of the present application by further emphasizing certain aspects of the claims. Applicants respectfully assert, however, that the claim amendments presented are not intended as, and should not be interpreted as, the surrender of any subject matter. Applicants are not conceding by these amendments that any previously submitted claims are unpatentable over the references of record. Applicants' present claim amendments are submitted only for purposes of facilitating expeditious prosecution of the present Application. Accordingly, Applicants respectfully reserve the right to pursue any previously submitted claims in one or more continuation and/or divisional patent applications.

In this response, Applicants have amended independent Claims 1, 14, and 16 to emphasize certain aspects of the claims. In particular, the independent claims now recite

limitation that denied boarding candidates include passengers without a seat and volunteers offering to give up their seat in exchange for an incentive. (See, e.g, para. [0016].) The independent claims now also recite the limitation that the financial value used for ranking the candidates is based on a lifetime value to the airline, the cost of rebooking, and the cost of the incentive for volunteers. (See, e.g, para. [0017], [0018].)

Furthermore, the independent claims also recite the limitation that the passengers selected for the flight are selected based on their ranking and a number of passengers that need to be denied boarding. In one case, when only a single seat remains for two passengers without seats that are equally ranked, the passenger with the higher lifetime value to the airline is given the seat. In another case, wherein only a single seat remains for two volunteers who are equally ranked, the volunteer with the higher lifetime value to the airline is given the incentive and rebooked. (See, e.g, para.[0014], [0016], [0017], and [0018].) Claims 8 and 9 have been cancelled. Claims 17-26 have been amended to maintain consistency among the claims. All amendments are fully supported throughout the Specification. No new subject matter has been introduced by these amendments.

### *Aspects of the Claims*

Prior to discussing the cited references, it may be useful to discuss certain aspects of the claims. The claims, as amended, recite systems and method for determining which passengers in a flight to bump or rebook when the flight is overbooked. A method, as typified by Claim 1, can include the steps of storing passenger data, determining a number of passengers likely to be denied boarding, and determining which passengers are candidates for denying boarding on the flight. The candidate passengers can be selected from passengers booked on the flight, but without a seat, or volunteers offering to give up their seat in exchange for an incentive.

The method can also include computing a rebooking cost for each candidate. The rebooking cost can be selected from the lesser of the cost to rebook the candidate on

another airline and the cost to rebook the candidate on the same airline, including any meals or lodging required because of an extended stay. The method can further include determining a lifetime value to the airline of the candidate. The method can additionally include determining a financial value of each of the candidates based on the lifetime value, the rebooking cost, and the incentive costs.

Once the financial value is determined, the method can compare the passenger data and rank the candidates according to their financial values. Afterwards, the passengers to be boarded on the plane can be selected according to their rank and their lifetime value, such that one of two equally ranked passengers without seats is given a seat if his or her lifetime value is higher and one of two equally ranked volunteers is given the incentive if his or her lifetime value is higher.

### **The Claims Define Over the Cited References**

In the Office Action, the independent claims were rejected as being unpatentable over Slivka in view of Ingram in further view of Arthur. Slivka discloses a system and method for rebooking passengers from a flight in view of the flight being cancelled or otherwise disrupted. Arthur discloses methods for dealing with overbooked flights. However, Applicants respectfully submit that Slivka, alone or in combination with any reference of record, fails to disclose each and every element of the claims, as amended. In particular, Applicants respectfully submit that the cited references fail to disclose or suggest any system or method for determining who in a list of passengers is to be bumped or rebooked and how to deal with the list, where the passengers include those without seats and volunteers.

First, Slivka fails to disclose a system or method for dealing with passengers in overbooked flights. Slivka explicitly discloses that the system and method disclosed therein is for managing rebooking of passengers from an already cancelled flight. (See Abstract.) Nowhere does Slivka disclose or suggest any system or method for selecting

passengers *already* booked on a flight and denying them boarding. The Office Action asserts that such a limitation is disclosed in Arthur. However, even though Arthur discloses methods for dealing with ticketed passengers once bumped. (see, e.g., pg. 291-292), nowhere does Arthur disclose or suggest any system or method for how to select the passengers to be involuntarily bumped. In contrast, the claims, as amended, explicitly recite systems and method for determining which already booked passengers should be voluntarily or involuntarily denied boarding.

Second, even if Slivka and Arthur are read as disclosing a system or method for dealing with overbooked flights, they still fail to disclose or suggest that a list of candidate passengers for denying boarding would include passengers without a seat and volunteers willing to give up their seat in exchange for an incentive. Nowhere does Slivka disclose or suggest how to deal with volunteers. In fact, the words "volunteer" and "overbooked" are not found in the text of Slivka. Such a limitation is also not disclosed or suggest in Arthur. Although Arthur also discloses methods for ticketed passengers to bid for remaining seats and for asking for volunteers (see, e.g., pg. 293-294), nowhere does Arthur disclose or suggest how to combine the two groups to make a list to determine who to bump. Arthur only discloses that contenders should bid for the remaining seat, the standard practice of asking for volunteers. However, Arthur does not disclose that the volunteers would be included with the contenders in any type of auction or bid-type scenario. In contrast, the claims, as amended, explicitly recite that the seatless passengers and the volunteers are lumped in a single list and ranked to determine who is to be bumped from the flight.

Finally, even if Slivka and Arthur were read as disclosing processing of a combined contender/volunteer list, neither reference discloses any type of tie-breaking scenarios. Nowhere in either Slivka or Arthur is it disclosed how to deal with cases in which two contenders or two volunteers have the same ranking. In contrast, the claims explicitly recite that in cases of a tie, deference is given to the passenger with the higher

lifetime value. For example, as recited in the claims, in the case of two contenders for a seat having the same ranking, the contender with the higher lifetime value to the airline is given the seat. Similarly, in the case of two volunteers with the same ranking, the volunteer with the higher lifetime value is rebooked and given the incentive. In either case, the passenger with the higher lifetime value – that is, the preferred customer of the airline – is given preferred treatment.

Accordingly, Slivka and Arthur, alone or in combination with any other reference of record, fail to disclose, suggest, or render obvious each and every limitation of independent Claims 1, 8, and 15, as amended. Applicants therefore respectfully submit the independent claims define over the references of record. Furthermore, as the remaining claims each depend from one of the independent claims while reciting additional features, Applicants submit that the dependent claims likewise define over the references of record.

### **CONCLUSION**

Applicants believe that this application is now in full condition for allowance, which action is respectfully requested. Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

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